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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,025	10/19/2000	Carlo Neri	GL-21 (GL-00-5)	5441
7590 01/07/2004				
Michael W. Ferrell, Esq. Ferrells, PLLC P.O. Box 312 Clifton, VA 20124-1706				
EXAMINER ANTHONY, JOSEPH DAVID				
ART UNIT		PAPER NUMBER		
1714				

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/692,025	NERI ET AL.	
	Examiner	Art Unit	
	Joseph D. Anthony	1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-14, drawn to a mixture of additives in granular form, classified in class 252, subclass 397.
 - II. Claims 15-17, drawn to a "use" of mixture of additives for stabilization and dying of organic, (no class/subclass since invention is not a statutory invention)
 - III. Claims 16-17, drawn to a polymer composition as an end product, classified in class 524, subclass 1+.
2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used as a coloring agent for inorganic compositions.
3. Inventions I and III are related as mutually exclusive inventions in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product and the inventions are patentably distinct. In the instant case, the intermediate product is deemed to be useful as a coloring agent for inorganic compositions and the inventions are deemed patentably distinct since there is nothing on this record to show them to be

obvious variants. Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Inventions (I and III) are patentably distinct from invention II since invention II is drawn to a non-statutory invention.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Michael W. Ferrell on 12/03/03 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Needham U.S Patent Number 5,455,288 or Roth U.S. Patent Number 5,173,116 or Gang et al. U.S. Patent Number 5,888,254 or EP 0 514 784 A1 or Schneider et al. U.S. Patent Number 4,604,100 or Satou et al. U.S. Patent Number 5,017,195 or Nebashi et al. U.S. Patent Number 4,999,138 or Deubel et al. U.S. Patent Number 4,729,796 or Yamauchi et al. U.S. Patent Number 5,437,688.

Needham teaches dustless color concentrates granules that comprise a dye/pigment and a stabilizer. Applicants' claims are anticipated over Example 1.

Roth teaches preparation of readily dispersible pigment granules.

Applicant's claims are anticipated over Example 2.

Gang et al teach leuco vat-dye preparations in granular form. Applicant's claims are deemed to be anticipated over the examples

EP teaches a process for granulating additives for organic polymers. Applicant's claims are anticipated over Example 6 wherein a granule is taught that comprises zinc oxide (a white pigment) and an antioxidant.

Schneider et al teaches a process for the preparation of granular dye formulations from polyethylene glycol melt. Applicant's claims are anticipated over Examples 1-5 which teach granules that comprise polyethylene glycol (a known stabilizer) and an azo type dye pigment.

Satou et al teach non-dustable granular dye particles coated with hydroxypropyl cellulose or carbohydrate. Applicant's claims are anticipated over Examples 1 and 6 which teach forming granules that comprise an azo type dye and sodium alginate. Applicant's claims are also anticipated over Examples 2 and 4 which teach forming granules that comprise an azo type dye and polyvinyl alcohol.

Nebashi et al teaches high-density granular concentrated detergent compositions. Applicant's claims are anticipated over the granular compositions as set forth in all of the examples of Table 1.

Deubel et al teach a process for the preparing pigment granules from aqueous suspension of pigment and alkaline solution of resin. Applicant's claims are anticipated over all the examples that comprise a pigment and an antioxidant, such as Example 1 etc.

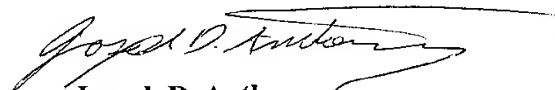
Yamauchi et al teach granular reactive dye compositions and method of making thereof. Applicant's claims are anticipated over all the examples.

Prior-Art Cited But Not Applied

10. Any prior-art reference which is cited on FORM PTO-892 but not applied, is cited only to show the general state of the prior-art at the time of applicant's invention.

Examiner Information

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (571) 272-1117. This examiner can normally be reached on Monday through Thursday from 7:35 a.m. to 6:00 p.m. in the eastern time zone. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (571) 272-1119. The centralized FAX machine number is (703) 872-9306. All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0651. The receptionist is located on the 8th floor of Crystal Plaza 3 (e.g. CP-3) and will be the welcome point for all visitors to the building.



Joseph D. Anthony
Primary Patent Examiner
Art Unit 1714

12/11/03